

**UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF COLUMBIA**

THE JAMES MADISON PROJECT
1250 Connecticut Avenue, N.W., Ste. 700
Washington, D.C. 20036

and

AUSTRALIAN BROADCASTING
CORPORATION
700 Harris Street
Ultimo NSW 2007
GPO Box 9994
Sydney NSW 2001

and

MARK WILLACY
700 Harris Street
Ultimo NSW 2007
GPO Box 9994
Sydney NSW 2001

Plaintiffs,

v.

CENTRAL INTELLIGENCE AGENCY
Washington, D.C. 20505

and

DEPARTMENT OF STATE
Office of the Legal Adviser
600 19th Street, NW
Washington, D.C. 20522

and

DEPARTMENT OF DEFENSE
1000 Defense Pentagon
Washington, D.C. 20301-1000

Defendants.

* * * * *

Civil Action No. 19-3060

COMPLAINT

This is an action under the Freedom of Information Act (“FOIA”), 5 U.S.C. § 552, et seq., as amended, to seek production of agency records sought by the plaintiffs The James Madison Project, the Australian Broadcasting Corporation and Mark Willacy from the defendants Central Intelligence Agency, the Department of State and the Department of Defense.

JURISDICTION

1. This Court has both subject matter jurisdiction over this action and personal jurisdiction over the defendant pursuant to 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1331.

VENUE

2. Venue is appropriate under 5 U.S.C. § 552(a)(4)(B) and 28 U.S.C. § 1391.

PARTIES

3. Plaintiff The James Madison Project (“JMP”) is a non-partisan organization established in 1998 to promote government accountability and the reduction of secrecy, as well as educating the public on issues relating to intelligence and national security.

4. Plaintiff Australian Broadcasting Corporation (“ABC”) is a long-standing public broadcast and media platform in Australia, having originally been created by the Australian Parliament in the 1930s. ABC qualifies as a representative of the news media.

5. Plaintiff Mark Willacy (“Mr. Willacy”) is a reporter for ABC, with more than three decades’ worth of investigative reporting experience. Mr. Willacy qualifies as a representative of the news media.

6. Defendant Central Intelligence Agency (“CIA”) is an agency within the meaning of 5 U.S.C. § 552(f), and is in possession and/or control of the records requested by the plaintiffs that are the subject of this action.

7. Defendant Department of State (“State”) is an agency within the meaning of 5 U.S.C. § 552(f), and is in possession and/or control of the records requested by the plaintiffs that are the subject of this action.

8. Defendant Department of Defense (“DoD”) is an agency within the meaning of 5 U.S.C. § 552(f), and is in possession and/or control of the records requested by the plaintiffs that are the subject of this action. DoD controls – and consequently serves as the proper party defendant for litigation purposes for – the Department of the Army (“Army”), U.S. Central Command (“CENTCOM”), the National Security Agency (“NSA”) and the DoD Inspector General (“DoD OIG”).

COUNT ONE (CIA)

9. By letter dated August 23, 2019, JMP, ABC and Mr. Willacy (hereinafter referred to collectively as the “Requesters”) submitted a FOIA request to the CIA.

10. By letter dated August 28, 2019, CIA acknowledged receipt and designated the request as Request Number F-2019-02331.

11. More than twenty (20) business days have lapsed since the Requesters submitted their FOIA request to the CIA. No substantive response has been received as of today. The Requesters have constructively exhausted their administrative remedies.

COUNT TWO (STATE)

12. By letter dated August 19, 2019, the Requesters submitted a FOIA request to State.

13. By letter dated August 29, 2019, State acknowledged receipt and designated the request as Request Number F-2019-09098. State indicated in its letter it was invoking its statutory right to extend the deadline to issue a substantive response by ten additional days.

14. No substantive response has been received as of today. The Requesters have constructively exhausted their administrative remedies.

COUNT THREE (ARMY)

15. By letter dated August 17, 2019, the Requesters submitted a FOIA request to the Army.

16. More than twenty (20) business days have lapsed since the Requesters submitted their FOIA request to the Army. No substantive response has been received as of today. The Requesters have constructively exhausted their administrative remedies.

COUNT FOUR (CENTCOM)

17. By letter dated August 17, 2019, the Requesters submitted a FOIA request to CENTCOM.

18. More than twenty (20) business days have lapsed since the Requesters submitted their FOIA request to CENTCOM. No substantive response has been received as of today. The Requesters have constructively exhausted their administrative remedies.

COUNT FIVE (NSA)

19. By letter dated August 17, 2019, the Requesters submitted a FOIA request to the NSA.

20. By letter dated September 13, 2019, NSA acknowledged receipt and designated the request as Request Number 107806.

21. More than twenty (20) business days have lapsed since the Requesters submitted their FOIA request to the NSA. No substantive response has been received as of today. The Requesters have constructively exhausted their administrative remedies.

COUNT SIX (DOD OIG)

22. By letter dated September 2, 2019, the Requesters submitted a FOIA request to the DoD OIG.

23. By letter dated September 5, 2019, DoD OIG acknowledged receipt of the request and designated it as Request Number DOD OIG-2019-001078.

24. More than twenty (20) business days have lapsed since the Requesters submitted their FOIA request to the DoD OIG. No substantive response has been received as of today. The Requesters have constructively exhausted their administrative remedies.

WHEREFORE, plaintiffs The James Madison Project, Australian Broadcasting Corporation and Mark Willacy pray that this Court:

(1) Order the defendants Central Intelligence Agency, Department of State and Department of Defense to process and release to the plaintiffs all responsive, non-exempt records;

(2) Award reasonable costs and attorney's fees as provided in 5 U.S.C. § 552(a)(4)(E) and/or 28 U.S.C. § 2412(d);

(3) Expedite this action in every way pursuant to 28 U.S.C. § 1657(a); and

(4) Grant such other relief as the Court may deem just and proper.

Date: October 14, 2019

Respectfully submitted,

/s/

Bradley P. Moss, Esq.
D.C. Bar #975905
Mark S. Zaid, Esq.
D.C. Bar #440532
Mark S. Zaid, P.C.
1250 Connecticut Avenue, N.W.
Suite 700
Washington, D.C. 20036
(202) 454-2809
(202) 330-5610 fax
Brad@MarkZaid.com
Mark@MarkZaid.com

Attorneys for the Plaintiffs